

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK MICHAEL HARRIS,

Plaintiff,

Case No. 2:14-cv-14459

Hon. Matthew F. Leitman

v.

COMPUWARE CORPORATION,

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT'S MOTION FOR PARTIAL DISMISSAL OF
COUNT II AND FOR DISMISSAL OF COUNT III [ECF #3]**

The Court, having reviewed Defendant's Motion for Partial Dismissal, the briefs of the parties, and heard oral argument from counsel for the parties on March 24, 2015. For all of the reasons stated on the record at the conclusion of the hearing:

IT IS HEREBY ORDERED that, pursuant to Rule 12(d) of the Federal Rules of Civil Procedure, Defendant's Motion for Partial Dismissal of Count II and for Dismissal of Count III [ECF #3] will be treated as one for summary judgment under Rule 56. Defendant will not be required to obtain leave of court under LR 7.1(b)(2) to file a motion for summary judgment at the conclusion of discovery in this matter.

IT IS FURTHER ORDERED that Defendant's Motion for Partial Dismissal [ECF #3] is **GRANTED IN PART AND DENIED IN PART** as follows:

- As to Count II, the Court **GRANTS** Defendant's Motion, and the claims for failure to accommodate and retaliation under the Americans with Disabilities Act are dismissed with prejudice. Only the claim for disability discrimination in Count II will proceed to the discovery stage of the litigation.
- As to Count III, the Court **DENIES** Defendant's Motion, and the claim for a violation of the Age Discrimination in Employment Act will proceed to the discovery stage of the litigation.
- No costs or attorney fees are awarded to either party.

IT IS SO ORDERED.

/s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: March 25, 2015

Approved as to form:

s/Rick J. Patterson with consent
Rick J. Patterson (P55706)
Attorney for Plaintiff

s/Susan D. Koval
Susan D. Koval (P59297)
Attorney for Defendant